

IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. APP (SJ) NO.909 OF 2008
(1) RAM CHANDRA PRASAD &
(2) RAVI KUMAR @ AMRESH KUMAR
VERSUS
STATE OF BIHAR

2 22.09.2008. Heard learned counsel for the parties.

The instant appeal has been filed by the two appellants against judgment dated 28.7.2008, passed by Addl. Sessions Judge cum Fast Track Court No.3, Bhojpur at Ara, in Sessions Trial No. 309 of 2004, arising out of Ara Nagar ps case no. 22 of 2003 bearing G R No. 2341 of 2003, whereby they have been convicted under section 324 of the I.P.C. and have been released on probation under section 4 of the Probation of Offenders Act, 1958.

The informant gave statement on 9.10.2003 at about 4 pm alleging that the accused persons Ram Chandra Prasad and his son Ravi Kumar @ Amresh Kumar (appellant nos. 1 and 2 respectively) caught hold of him and gave dagger blow on his both arms, in the meantime, when her daughter intervened, they also assaulted her.

After cognizance police submitted charge sheet for offences under sections 341,323,324,307/34I.P.C. Charges were framed under section 307 I.P.C.

Six witnesses were examined in course of trial in which Niranjana Kumar was examined as PW 3, father of informant was examined as PW 2, IO was examined as PW 6.

The accused persons denied the charges and claimed to be tried. Appellant no.1 claimed that at the relevant time he was not at

the P.O.

On consideration of materials on record, learned trial court did not find the charges under section 307 of the I.P.C. sustainable and as such passed order of conviction only under section 324 I.P.C. and released him. The trial court did not pass any sentence of imprisonment and gave the appellant the benefits of Probation of Offenders Act.

After considering the materials on record, this court does not find any reason to differ with the aforesaid findings of the trial court, as such, the appeal is dismissed. However, so far sentence is concerned, learned trial court has already given the benefit of section 4 of the Probation of Offenders Act.

It is made clear that release of appellants under provision of section 4 of the Probation of Offenders Act, 1958 will not be taken as a disqualification.

The appellants are discharged from executing any bond.

Shashi.

(S.P.Singh,J).

